

***United States Court of Appeals
for the Second Circuit***



REPLY BRIEF

MR. Aponte

75-1393

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :
v. :
JOE TRUMAN BOYD, :
Defendant. :
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75 Cr. 140

B E F O R E:

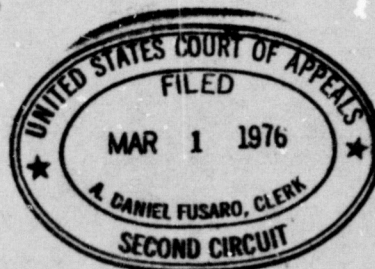
HON. MILTON POLLACK,
District Judge

New York, New York
December 2, 1975
9:30 a.m.

APPEARANCES:

W. CULLEN MacDONALD,
Assistant United States Attorney

MARVIN B. SEGAL, Esq.,
Attorney for Defendant Boyd



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2 THE CLERK: United States of America v. Joe
3 Truman Boyd.

4 MR. SEGAL: Good morning, your Honor.

5 THE COURT: Mr. Segal, is there anything you
6 want to say on behalf of Joe Truman Boyd before imposition
7 of sentence?

8 MR. SEGAL: Yes, your Honor.

9 I realize that my remarks need be only cursory
10 since the Court is familiar with the factors in the case,
11 and this includes the trial and the benefit of the pre-
12 sentence report.

13 However, I would point out to the Court that at
14 some time during this--a problem arose in connection with
15 this case, and there was some indication that there was an
16 attempt to obtain assets for the company which were of some
17 value, an effort to contain the ability of the defendant,
18 Mr. Boyd, to profit from the exercises in this case since
19 it appears there was never any stock sold on his behalf
20 or that there was a profit made as a result of sales to
21 the public.

22 The sales to the public were of a limited nature.
23 The offense I believe is one which dealt more with mis-
24 representation of the assets of the company than its ef-
25 fect on the actual public.

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2 I would ask your Honor to be as temperate as is
3 possible under the circumstances in light of Mr. Boyd's
4 family, in light of the background of that family, and the
5 problems that have been visited upon him in the course of his
6 life to this point.

7 Always these people become the victims more so
8 than the individuals who perpetrate these crimes.

9 I would ask in the light of all of these factors,
10 your Honor, that the Court grant Mr. Boyd such consideration
11 as is possible under the circumstances.

12 THE COURT: Joe Truman Boyd, is there anything
13 you want to say on your own behalf before imposition of
14 sentence?

15 DEFENDANT BOYD: Yes, sir.

16 I'm a veteran of two wars, your Honor. I have
17 ten brothers, each of whom is a veteran of the Armed
18 Forces of the United States, several of us in more than
19 one conflict.

20 I did not set out to commit any crime, much less
21 a conspiracy. I did not conspire with any of these people.
22 I thought that I had put together a good company, and I
23 certainly have done nothing wrong.

24 THE COURT: Mr. MacDonald?

25 MR. MacDONALD: We have nothing to add to the

1 presentence report before the Court.

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3 THE COURT: Joe Truman Boyd is before the Court
4 having been found guilty of 53 counts under an indictment
5 charging conspiracy to violate the securities laws, mail
6 and wire fraud, securities fraud and false statements.

7 The evidence beyond a reasonable doubt showed
8 him to be the most culpable of the defendants named in this
9 indictment.

10 His vehement denial of guilt is inconsistent
11 with what the record shows.

12 Mr. Boyd's prior criminal record consists of
13 approximately fourteen arrests over the past twenty years
14 mostly for minor offenses.

15 In most instances, charges against him were dis-
16 missed.

17 Despite his protestations of innocence of the
18 charges here, it is obvious that he knowingly organized and
19 choreographed the complex fraud that now brings him before
20 the Court. There is substantial indication that this
21 was only a recurring effort to peddle securities by fraudu-
22 lent means over the past five years.

23 While it does not bear on the sentence to be
24 imposed today, the information is that he is the subject of
25 an investigation in Dallas, Texas, under suspicion of

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2 having peddled stolen stock.

3 There is no doubt about the seriousness of the
4 offenses here and Mr. Boyd's complicity therein.

5 It is the judgment of the Court that on each of
6 the 53 counts on which he was found guilty he should be
7 committed to the custody of the Attorney General or his
8 authorized representative for a term of five years, and
9 defendant shall become eligible for parole under 18 U. S. C.
10 a Section 4208(a)(2) at such times as the Board of Parole
11 may determine.

12 The defendant is remanded.

13 MR. SEGAL: Your Honor, in connection with the
14 Court's sentence, I take it that the Court on each of the
15 53 counts determines that the five-year sentences are to
16 be concurrent?

17 THE COURT: To run concurrently. Thank you for
18 calling it to my attention.

19 In this case, Mr. Boyd is advised of his rights
20 to appeal, and similarly Mr. Goodloe is advised of his
21 rights to appeal; having been represented in each case by
22 counsel, he can be apprised of the time limits in connec-
23 tion therewith.

24 In the event that he is unable to afford counsel
25 upon proper application showing he may apply for counsel

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on appeal.

Similarly in the case of Mr. Goodloe.

MR. SEGAL: Your Honor, at present Mr. Boyd is at large on a bond of \$15,000 which has been posted and a cashiers check with the Clerk of this Court.

I understand that at the time the last bond was set the Court indicated that that might at this point, subsequent to sentence, be an inappropriate amount.

Having determined that the Court in an earlier stage of today's proceedings has increased the bond, I would like to make an application to this Court that if there is such increase, it would be tantamount to the denial of bail to Mr. Boyd.

As the Court is aware, he was unable, without a great deal of problem and a great deal of time passing to submit the \$15,000 that had been previously submitted. Granted that subsequent to sentence a different situation obtains, he, for all of the background, has been amenable consistent to the processes of the Court.

I would respectfully ask that if there is an increase, it be in an amount over and above the present which would enable Mr. Boyd to be at large to assist in any appeal that might be filed in his behalf.

THE COURT: Mr. MacDonald?

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2 MR. MacDONALD: We oppose the admission of
3 Mr. Boyd's bail under any sum. We feel that the history
4 of the violation of the bail conditions previously fixed
5 by the Court on the jury's returning its guilty verdict,
6 whether back-lighted or front-lighted by his prior history
7 of involvement with the law and arrests and violations
8 fully warrant the Court in finding that he represents a
9 danger to the public, and on that basis alone, the denial
10 of bail would be justified.

11 If any sum is to be fixed, we ask that it be
12 fixed in the sum of \$50,000, beneath which no adequate
13 assurance of his attendance hereinafter would be provided
14 if a smaller sum were fixed.

15 We have also in mind the-- well, I think there
16 is sufficient basis for denying bail altogether in light
17 of his demonstrated danger to the public.

18 THE COURT: Considering the background of the
19 history of the bail terms heretofore and the measures that
20 the Government had to take in connection with securing
21 compliance of this defendant, it is very doubtful that he
22 is entitled to bail pending appeal; moreover, there has
23 been no suggestion of any meritorious point for appeal.

24 Under all the facts and circumstances, however,
25 I am inclined to fix bail, nonetheless, but at a sum

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2 which will adequately take care of all of the conflicting
3 considerations involved here, and accordingly, bail pend-
4 ing appeal is fixed at \$35,000 cash or a surety bond,
5 subject further to appropriate restrictions to the bail
6 limits of the Court.

7 The defendant is remanded accordingly until
8 bail is posted.

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13 I (We) hereby certify that the foregoing
14 is a true and accurate transcript to the best
of my (our) skill and ability from my (our)
stenographic notes of this proceeding.

15 *Barbara Boehm*

16 Official Court Reporter
U. S. District Court